

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
MARITIME COMMUNICATIONS/LAND	)	EB Docket No. 11-71
MOBILE, LLC	)	File No. EB-09-IH-1751
	)	FRN: 0013587779
)	
Participant in Auction No. 61 and Licensee of Various)	
Authorizations in the Wireless Radio Services)	
)	
Applicant for Modification of Various)	
Authorizations in the Wireless Radio Services)	
)	
ENCANA OIL AND GAS (USA), INC.;	)	Application File Nos.
DUQUESNE LIGHT COMPANY; DCP	)	0004030479, 0004144435,
MIDSTREAM, LP; JACKSON COUNTY RURAL	)	0004193028, 0004193328,
MEMBERSHIP ELECTRIC COOPERATIVE;	)	0004354053, 0004309872,
PUGET SOUND ENERGY, INC.; ENBRIDGE	)	0004310060, 0004314903,
ENERGY COMPANY, INC.; INTERSTATE POWER	)	0004315013, 0004430505,
AND LIGHT COMPANY; WISCONSIN POWER	)	0004417199, 0004419431,
AND LIGHT COMPANY; DIXIE ELECTRIC	)	0004422320, 0004422329,
MEMBERSHIP CORPORATION, INC.; ATLAS	)	0004507921, 0004153701,
PIPELINE – MID CONTINENT, LLC; DENTON	)	0004526264, 0004636537,
COUNTY ELECTRIC COOPERATIVE, INC.,	)	and 0004604962
DBA COSERV ELECTRIC; AND SOUTHERN)	
CALIFORNIA REGIONAL RAIL AUTHORITY)	
)	
For Commission Consent to the Assignment of)	
Various Authorizations in the Wireless Radio)	
Services)	

To: Marlene H. Dortch, Secretary

Attention: Richard L. Sippel, Chief Administrative Law Judge

PINNACLE'S PROPOSED FINDINGS OF FACT ON ISSUE (G)

Pinnacle Wireless ("Pinnacle"), by undersigned counsel, submits these proposed findings of fact on Issue (g). For each separately numbered proposed finding (displayed in bold), Pinnacle provides citation(s) to evidence in the record supporting the finding.

1. **In December 2005, Pinnacle began leasing spectrum under call sign WRV374 in northern New Jersey for construction and operation of a radio communications system for the New Jersey Sports and Exposition Authority (NJSEA) at the Meadowlands complex. This first lease was signed with Mobex Network Services, the predecessor licensee to Maritime of call sign WRV374, in December 2005.** This is shown by the record testimony of John Reardon (EB Exhibit 1A, Para. 14; transcript pg. 1494, lines 5-16); by the testimony of Robert Timothy Smith (EB Exhibit 1C, Para. 8); by the testimony of Sandra DePriest (EB Exhibit 1D, Para. 10). A copy of this lease is reproduced as EB Exhibit 51.

2. **After Maritime acquired WRV374 from Mobex at the end of December 2005, Maritime expanded the spectrum lease to Pinnacle in New Jersey under a series of agreements entered between January 2006 and December 2008, to allow Pinnacle's State-wide deployment of a network providing critical communications to the New Jersey Turnpike Authority (NJTA), covering the New Jersey Turnpike, the Garden State Parkway and tributary roadways to each, in addition to the network operated for NJSEA.** This is supported by the record testimony of John Reardon (EB Exhibit 1A, Para. 14; transcript pg. 1494, lines 13-25); by the testimony of Larry Allen (EB Exhibit 1G, paras. 2-3); A copy of the December 2008 lease is reproduced as EB Exhibit 53.

3. **Pinnacle's current spectrum lease with Maritime runs to early 2016, with the possibility of a five-year extension.** This is shown by the testimony of John Reardon (EB Exhibit 1A, para. 14); and the lease itself (EB Exhibit 53).

4. **Pursuant to its leases with Maritime, Pinnacle constructed and currently continues to operate a total of 19 "fill in" sites in New Jersey, 18 for the NJTA and one for**

NJSEA. This is shown by the testimony of Larry Allen (EB Exhibit 1G, para. 2; Transcript pgs. 1533-35); testimony of John Reardon (Transcript pgs. 1495-98); EB Exhibit 53.

5. The 19 “fill in” sites are specifically authorized to be constructed by Pinnacle under the December 2008 lease agreement entered between Pinnacle and Maritime, and are specified in detail on the Exhibits thereto. This is supported by the testimony of John Reardon (Transcript pgs. 1495-98); and is set forth in the lease itself (EB Exhibit 53).

6. The 19 “fill in” sites constructed and operated by Pinnacle fall within the combined contour of call sign WRV374 licensed locations 14, 15, 16, 18, 25 and 33. This is shown by the testimony of John Reardon (EB Exhibit 1A, para. 14; transcript pg. 1499); and by the testimony of Larry Allen (EB Exhibit 1G, para. 2).

7. NJSEA currently uses the communications network constructed by Pinnacle on the WRV374 spectrum at the Meadowlands Sports and Entertainment Complex to provide critical Fire, Medical, Security and Traffic Operations communications in carrying out its responsibility for the safety of more than eight million (8,000,000) visitors to the Meadowlands complex every year; such communications include medical staff, maintenance and system operations communications, security personnel communications and communications essential to crowd control. This is shown in the testimony of Larry Allen (EB Exhibit 1A, para. 4; transcript pg. 1533).

8. If Pinnacle no longer had access to the spectrum that it leases from Maritime, it would likely cause an extended break in service that would have severe public safety consequences. The NJSEA radio network utilizes equipment built specifically to operate in the 220 MHz band. Thus, Pinnacle would not be able to continue to provide support for NJSEA’s 220 MHz trunked communications system if the WRV374 spectrum were not

available. The entire system would need to be replaced in order to utilize alternative spectrum (assuming that alternative spectrum were available), including portable radios, mobile radios, repeaters, combiners, antennas, etc. Loss of such essential communications would jeopardize NJSEA's ability to perform medical, security, crowd control and maintenance tasks at the Meadowlands Complex, placing personnel and event participants at risk. This is shown in the testimony of Larry Allen (EB Exhibit 1G, para. 5).

9. The NJTA network constructed by Pinnacle using the WRV374 spectrum currently provides critical communications that help to ensure the safety of nearly 900,000,000 drivers each year on the New Jersey Turnpike and Garden State Parkway. Such communications include those related to road maintenance, construction, road side assistance to stranded drivers, snow removal, coordination of lane closures, and other operations. These communications are essential to the operations of on the New Jersey Turnpike and the Garden State Parkway. This is shown in the testimony of Larry Allen (EB Exhibit 1G, para. 6).

10. Without spectrum authorized under WRV374, Pinnacle would no longer be able to support NJTA's operations in New Jersey. A loss of such essential operations could jeopardize NJTA's ability to coordinate road maintenance, closures, snow removal, driver assistance and other activities on the New Jersey Turnpike and the Garden State Parkway. Given the volume of traffic on these two roadways, there would be a very significant impact on the safety of the public-at-large if this network could not be used. This is shown in the testimony of Larry Allen (EB Exhibit 1G, para. 7).

11. As with the network that supports the NJSEA, the NJTA radio network utilizes equipment built specifically to operate in the 220 MHz band. Thus, if that

spectrum were no longer available to Pinnacle, both systems would need to be replaced in order to utilize alternative spectrum (assuming that alternative spectrum were available), including portable radios, mobile radios, repeaters, combiners, antennas, etc. There would be a significant cost to utilizing alternative spectrum for these essential communications, even if such alternative spectrum could be found. This is shown in the testimony of Larry Allen (EB Exhibit 1G, para. 8).

12. Under its leases with Maritime, Pinnacle paid a very substantial amount of money to Maritime for the right to use the WRV374 spectrum in New Jersey to support the NJTA and NJSEA critical operations until 2016. This is shown in the testimony of John Reardon (transcript pgs. 1501-02).

13. Pinnacle constructed its systems for the NJTA and NJSEA using 19 “fill in” sites rather than the licensed locations 14, 15, 16, 18, 25 and 33 because the “fill in” locations allow for better coverage, more efficient spectrum utilization and reuse, and the provision of a more robust service to users than would be afforded by operating from the locations listed on the WRV374 license. This is shown by the Testimony of Larry Allen (EB Exhibit 1G, para. 3; transcript pgs. 1533-34); by the testimony of John Reardon (transcript pgs. 1498-1500).

14. Indeed, there would be gaps in coverage on the NJ Turnpike and Garden State Parkway if the NJTA system were operated from the WRV374 licensed locations rather than from the 18 “fill in” sites constructed by Pinnacle for the NJTA. This is shown in the testimony of Larry Allen (Transcript pg. 1534, lines 5-8).

15. Additionally, if the licensed locations 14, 15, 16, 18, 25 and 33 on WRV374 were operated concurrently with the “fill in” sites constructed by Pinnacle, unacceptable

interference to the “fill in” sites would be caused by operation of the licensed sites. This is shown by the testimony of Larry Allen (EB Exhibit 1G, para. 3; transcript pg. 1534); and by the testimony of Robert Timothy Smith (transcript pg. 1576).

16. An engineering study performed by Pier Com Solutions demonstrated that both co-channel and adjacent channel interference would be caused to the “fill in” sites by concurrent operation of the licensed locations. This is shown in the testimony of Larry Allen (Transcript pg. 1534-35).

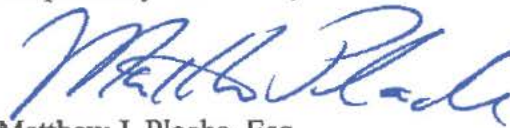
17. When Pinnacle began leasing spectrum in 2005, Mobex was operating from the licensed locations 14, 15, 16, 18, 25 and 33 on WRV374, and after Maritime’s acquisition of WRV374 at the end of 2005, operations at the licensed locations were continued by Maritime providing service to end user customers using the previously constructed PassPort system until late 2007. Testimony of Robert Timothy Smith (EB Exhibit 1C, para. 8).

18. Those prior operations at the WRV374 licensed locations could not be continued once Pinnacle completed and began operations from the 18 “fill in” sites built for the NJTA because both co-channel and adjacent channel interference were caused to the “fill in” sites by concurrent operation of the licensed locations under WRV374. Testimony of Robert Timothy Smith (transcript pgs. 1576-77).

19. Once the Pinnacle leases and renewals have run their course and Pinnacle no longer uses the spectrum licensed under WRV374 locations 14, 15, 16, 18, 25 and 33 to support the operations of the NJTA and NJSEA, it is Maritime’s intention to reinstitute operations from the licensed locations under WRV374. This is shown by the testimony of Sandra DePriest (transcript pg. 1361).

Neither the Enforcement Bureau nor any other party introduced evidence into the record at trial on issue (g) that would contravene any of the proposed findings set forth above. Indeed, the Enforcement Bureau, which has the burden of proof in this proceeding, concurs that the WRV374 licensed locations relied upon by Pinnacle to support the operations of the NJTA and NJSEA have not permanently discontinued. At trial, the Enforcement Bureau's attorney stated, "The Bureau intends to demonstrate by a preponderance of the evidence that when these factors are taken into consideration, Maritime took concrete steps to ensure that the discontinuance of operations at WRV374, locations 14, 15, 16, 18, 25, 33 ... was not permanent." Transcript pg. 1258 (emphasis added).

Respectfully submitted,



Matthew J. Plache, Esq.
Law Office of Matthew J. Plache
5425 Wisconsin Avenue
Suite 600, PMB 643
Chevy Chase, MD 20815

Counsel to Pinnacle Wireless

Date: April 8, 2015

Certificate of Service

I certify that on this 8th day of April 2015, I caused copies of the foregoing document to be served by U.S. Postal Service, First Class postage prepaid, on the following:

The Honorable Richard L. Sippel
Chief Administrative Law Judge
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Pamela S. Kane, Deputy Chief
Michael Engel, Attorney
Brian J. Carter, Attorney
Investigations and Hearing Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W. – Room 4-C330
Washington, DC 20554

Robert G. Kirk
J. Wade Lindsay
Mary N. O'Connor
Wilkinson Barker Knauer, LLP
2300 N Street, NW Suite 700
Washington, DC 20037

Paul J. Feldman
Harry F. Cole
Fletcher, Heald & Hildreth, PLC
1300 N. 17th Street – 11th Floor
Arlington, VA 22209

Charles A. Zdebski
Gerit F. Hull
Eckert Seamans Cherin & Mellott, LLC
1717 Pennsylvania Avenue, N.W.
Washington, DC 20006

James A. Stenger
Chadbourne & Parke, LLP
1200 New Hampshire Avenue, NW
Washington, DC 20036

Warren Havens
2509 Stuart Street
Berkley, CA 94705

Jack Richards
Albert J. Catalano
Wesley Wright
Keller & Heckman LLP
1001 G Street, NW
Suite 500 West
Washington, DC 20001

Jeffrey L. Sheldon
Levine, Blaszak, Block & Boothby, LLP
2001 L Street, NW, Suite 900
Washington, DC 20036

Robert J. Keller
Law Offices of Robert J. Keller, P.C.
PO Box 33428
Washington, DC 20033



Matthew J. Plache